

REMARKS

This amendment is submitted in an earnest effort to bring this application to issue without delay.

Applicants wish to reiterate their claim to the benefit of their Hungarian priority date of 27 January 2004 pursuant to the International Convention. Applicants have made of record a certified copy of Hungarian Patent Application P0400270 filed 27 January 2004 as part of their PCT/HU2005/000002 filed 25 January 2005 of which the instant application is the US National Phase. Applicants respectfully request that the Examiner acknowledge the Applicants' perfected right of priority.

Applicants appreciate the Examiner's indication that claims 14 through 21 are directed to allowable subject matter. Applicants have decided to cancel claims 12, 13 and 22 through 24. Thus only claims 14 through 21 remain in the application.

The Examiner has rejected claims 13, 19, and 24 under 35 USC 112, second paragraph, as indefinite. Applicants ask that the Examiner reconsider the rejection. The Examiner has the impression that these claims contain an improperly alternative expression, namely, a broad range followed by a narrow range within the scope of the broad range. The Examiner perhaps has the mistaken belief that the expression "wherein at least 95% of the particles of the salt are below 75  $\mu\text{m}$  in diameter" is an expression wholly within "wherein at least 99% of the particles of the salt are below 250  $\mu\text{m}$  in diameter" and so one "skilled in the art" would not know whether

to apply the first range or the second range in interpreting the scope of the claim. In the present case, however, the two ranges are not alternative ranges; both ranges are required ranges, and in order to satisfy the requirements of claims 13, 19, and 24 the butoconazole nitrate must comply with both requirements at the same time. That is the butoconazole must have 95% of the particles with a diameter < 75  $\mu\text{m}$  and at the same time must have 99% of the particles with a diameter < 250  $\mu\text{m}$ . Thus the two particle sizes are not alternative, but are required in tandem, and that requirement is clear and definite. Thus the Examiner should no longer reject any of these claims under 35 USC 112, second paragraph, as indefinite.

Applicants believe that all claims now presented are in condition for allowance and a response to that effect is earnestly solicited.

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Enclosure:  
None.